

**BEFORE THE CITY OF ATLANTA
BOARD OF ETHICS**

In the matter of:

Benjamin DeCosta

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Case No. CO-07-014

Report of Ethics Officer

Recommendation

This complaint should be dismissed because there is no probable cause to believe that Aviation General Manager Benjamin DeCosta has committed an act that violates sections 2-802 or 2-811 of the City's Code of Ethics.

Findings

1. George Anderson of Ethics in Government Group filed a formal ethics complaint against Aviation General Manager Benjamin DeCosta on February 28, 2007, alleging a violation of sections 2-802 and 2-811. The complaint specifically alleges that Mr. DeCosta "violated the public's trust by purchasing a full-page Ad, in color, to congratulate his Boss, the Mayor of Atlanta on being selected by Georgia Trend magazine to be Georgia of the Year 2007. . . . DeCosta used/misused \$11,800 of public funds paid to Georgia Trend magazine."
2. Mr. DeCosta filed a response on April 25, 2007, and a supplemental response on July 3, 2007. He says that the airport allocates funds for advertising and public relations to promote its agenda, he approves the advertising budget as part of his approval of the airport's entire budget, and he gives general directions to his staff on important areas of public interest where the department should use its advertising dollars.
3. Section 2-802 states that the purpose of the City's Code of Ethics is protect the integrity of government by prohibiting conflicts of interests. Section 2-811 prohibits officials and employees from using or permitting the use of public property for the private advantage of the official or any other person or private entity. There is an exception that permits officials and employees to use city property "which is provided as a matter of stated public policy for the use of officials and employees in the conduct of official city business." Atlanta, Ga., Code of Ordinances § 2-811.
4. *Georgia Trend* is a magazine that reports on business and political news in the State of Georgia. In its January 2007 cover story, the magazine announced that it had selected Shirley Franklin as *Georgia Trend's* 2007 Georgian of the Year.

Vincent Coppola, "Pragmatic Visionary," *Georgia Trend* (Jan. 2007). The same issue listed Mr. DeCosta as one of the state's most influential citizens for his role as general manager when the fifth runway and a new air-traffic control tower opened in 2006. "2007 Most Influential Georgians," *Georgia Trend*, 37-38 (Jan. 2007).

5. In the same issue, the City's Department of Aviation placed a full-page advertisement congratulating Mayor Shirley Franklin for her selection as the 2007 Georgian of the Year. The advertisement features two pictures of Mayor Franklin at the ceremony for the opening of the fifth runway at the Hartsfield-Jackson Atlanta International Airport. See Exhibit 1.
6. Mr. DeCosta did not make, approve, or know in advance about the decision to place a full-page advertisement in the magazine. Email from Benjamin DeCosta to Virginia Looney (July 3, 2007). The airport's public relations manager made the decision to place the advertisement, which cost \$11,800, after the magazine informed her that the mayor was receiving the award. Telephone interview by Claudia Janka with Sterling Payne, Public Relations Manager, Sr., Department of Aviation (June 25, 2007).
7. The Department of Aviation spends funds on marketing, public relations, and advertising to tout its role as the world's busiest airport with one of the country's five best mayors. Email from Benjamin DeCosta to Virginia Looney (July 3, 2007). The mission of the department's Office of Public Affairs is to promote a positive image of the airport by disseminating information in a timely, accurate, and persuasive manner. The office had a \$400,000 advertising budget in Fiscal Year 2006-2007. Email from Sterling Payne to Virginia Looney (June 28, 2007).
8. The airport's public relations manager was acting in her official capacity and performing her official duties in choosing to spend \$11,800 from the airport's advertising budget to promote the airport with state and local leaders. Therefore, the purchase of the advertisement in *Georgia Trend* magazine was official city business.
9. There is no evidence that Mr. DeCosta requested, used, or permitted the use of the airport's advertising funds for the private advantage of any official, employee, other person, or private entity.
10. Based on the Ethics Office's investigation, there is no probable cause to believe that Benjamin DeCosta has violated section 2-802 and 2-811 of the City's Code of Ethics. I recommend that the Board of Ethics dismiss the complaint for lack of probable cause.

Date: July 5, 2007

Signed: Ginny Looney, Ethics Officer